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Filing date: **08/25/2021**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91237315
Party	Defendant Universal Life Church Monastery Storehouse, Inc.
Correspondence Address	MICHAEL P MATESKY II MATESKY LAW PLLC 4500 9TH AVE NE SUITE 300 SEATTLE, WA 98105 UNITED STATES Primary Email: trademarks@mateskylaw.com Secondary Email(s): mike@mateskylaw.com, litigation@mateskylaw.com, mike@psbizlit.com 206-701-0331
Submission	Motion to Amend/Amended Answer or Counterclaim
Filer's Name	Michael P. Matesky, II
Filer's email	mike@mateskylaw.com, litigation@mateskylaw.com
Signature	/Michael P. Matesky, II/
Date	08/25/2021
Attachments	Mot. Am. App. 082521.pdf(464329 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

AMERICAN MARRIAGE
MINISTRIES,

Opposer,

v.

UNIVERSAL LIFE CHURCH
MONASTERY STOREHOUSE,

Applicant.

Opposition No. 91237315

MOTION TO AMEND APPLICATION

Applicant Universal Life Church Monastery Storehouse (“Applicant” or “ULC Monastery”) hereby moves to amend Application No. 87430729 (the “Application”) to correct a scrivener’s error, namely, to change the Applicant’s name from “Universal Life Church Monastery Storehouse, *Inc.*” to “Universal Life Church Monastery Storehouse.” AMM takes “no position” on the requested amendment.

Due to a scrivener's error on behalf of Applicant's attorney, the Application identified the Applicant as “Universal Life Church Monastery Storehouse, *Inc.*” The Applicant's name is “Universal Life Church Monastery Storehouse” and always has been since its formation with the Washington Secretary of State. The word “Inc.” is not and never was a component of the Applicant’s name. To the best of Applicant’s knowledge, no entity named “Universal Life Church Monastery Storehouse, *Inc.*” exists. Accordingly, Applicant is seeking to correct this scrivener's error. Such mistaken inclusion of a corporate entity term in an applicant’s name is generally

considered a “correctable error.” *See* TMEP 1201.02(c)(7); *U.S. Pioneer Electronics Corp. v. Evans Marketing, Inc.*, 183 USPQ 613 (Comm'r Pats. 1974)(allowing correction from EVANS MARKETING COMPANY, INC. to EVANS MARKETING, INC. where mistake was not significant and not intentional).

Opposer American Marriage Ministries (“Opposer” or “AMM”) previously requested that Applicant correct this error with the PTO. *See* Subjoined Matesky Decl. ¶ 4, Ex. A at 3-5. Applicant did so for multiple existing registrations. *Id.* ¶ 5. However, because this case was suspended at the time, Applicant could not file the instant motion. AMM’s counsel confirmed that they “understand the GET ORDAINED one will need to wait, but we’ll take your assurance on that.” *Id.* ¶ 6. Ex. A at 2-3. When asked for comment on the instant motion, AMM’s counsel stated that AMM has “no position” on the motion. *Id.* Ex. A at 1. Thus, as previously agreed between the parties, and without opposition from AMM, ULC Monastery now moves to amend the Application to correct the aforementioned scrivener’s error.

DATED: August 25, 2021

Respectfully submitted:

MATESKY LAW^{PLLC}

s/ Michael P. Matesky, II/

Michael P. Matesky, II
(Washington Bar No. 39586)
4500 9th Ave. NE, Suite 300
Seattle, WA 98105
Ph: 206.701.0331
Fax: 206.702.0332
Email: mike@mateskylaw.com;
litigation@mateskylaw.com

Attorney for Applicant

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

AMERICAN MARRIAGE
MINISTRIES,

Opposer,

v.

UNIVERSAL LIFE CHURCH
MONASTERY STOREHOUSE,

Applicant.

Opposition No. 91237315

DECLARATION OF MICHAEL P.
MATESKY, II

I, Michael P. Matesky, II, declare as follows:

1. I am and at all relevant times have been counsel for Applicant in this matter. I also represent Applicant in Case No. 2:19-cv-00301-RAJ pending in the U.S. District Court for the Western District of Washington (the “District Court Case”) between Applicant and Opposer American Marriage Ministries (“AMM”).

2. I am over the age of eighteen years and otherwise competent to testify in this matter.

3. I make this declaration based on my personal knowledge.

4. Before dismissing a non-existent entity identified as “Universal Life Church Monastery Storehouse, Inc.” from the District Court Case, counsel for AMM requested that Applicant correct its corporate name (from “Universal Life Church Monastery Storehouse, Inc.” to “Universal Life Church Monastery Storehouse”) in documents filed with the PTO.

5. Applicant requested and received corrected certificates of registration removing the erroneous “Inc.” from its corporate name for U.S. Registration Nos. 5643574, 5199500, 4869623, and 5911468.

6. Attached hereto as Exhibit A is a true and correct copy, with relevant portions highlighted, of a chain of email correspondence between court personnel, Applicant’s counsel, and AMM’s counsel, spanning January 27, 2021 through August 23, 2021.

DATED: August 25, 2021 at Seattle, Washington

s/ Michael P. Matesky, II/

Michael P. Matesky, II

EXHIBIT A

Mike Matesky

From: Ben Hodges <ben.hodges@foster.com>
Sent: Monday, August 23, 2021 11:16 AM
To: Mike Matesky; Michael Galletch; Kelly Mennemeier; sroberts@bpmlaw.com; acohen@bpmlaw.com
Cc: Nancy Stephens
Subject: RE: Universal Life Church Monastery Storehouse v King et al 2:19-cv-00301-RAJ

Mike,

I honestly can't remember where we left the prior discussions as it has been awhile to know if there is a change in position. Right now, AMM does not consent to the filing, instead **AMM has no position**. Whether ULC's request is allowed or not appears to be an issue between ULC and TTAB, not AMM.

Thanks.

Ben

Ben Hodges

(he/him)

Principal

Foster Garvey PC
Tel: 206.447.6282
ben.hodges@foster.com

From: Mike Matesky [mailto:mike@mateskylaw.com]
Sent: Monday, August 23, 2021 9:21 AM
To: Ben Hodges; Michael Galletch; Kelly Mennemeier; sroberts@bpmlaw.com; acohen@bpmlaw.com
Cc: Nancy Stephens
Subject: RE: Universal Life Church Monastery Storehouse v King et al 2:19-cv-00301-RAJ

Ben,

It was my understanding based on our previous communication that AMM wanted ULC Monastery to clarify that the owner of its trademark registrations/applications was mistakenly identified with the inclusion of "Inc." We did so with regard to existing registrations, but could not do so for the GET ORDAINED application for an extended period of time (as explained in my email below).

We intend to do so now. Can we represent that motion as consented, or has AMM changed its position?

Sincerely,
Mike

Mike Matesky
Matesky Law PLLC
4500 9th Ave. NE, Suite 300

Seattle, WA 98105

(Please Note New Street/Mailing Address Above)

Ph: 206.701.0331

Fax: 206.701.0332

mike@mateskylaw.com

www.mateskylaw.com



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From: Ben Hodges [<mailto:ben.hodges@foster.com>]

Sent: Thursday, February 04, 2021 11:21 AM

To: Mike Matesky <mike@mateskylaw.com>; Michael Galletch <mike@psbizlit.com>; Kelly Mennemeier <kelly.mennemeier@foster.com>; sroberts@bpmlaw.com; acohen@bpmlaw.com

Subject: RE: Universal Life Church Monastery Storehouse v King et al 2:19-cv-00301-RAJ

Thanks Mike, I think that's sufficient from our end and understand that the GET ORDAINED one will need to wait, but we'll take your assurance on that.

Do you have any opinion on the form of what we do with the Court?

Thanks.

Ben

Ben Hodges

Principal

Foster Garvey PC

Tel: 206.447.6282

ben.hodges@foster.com

From: Mike Matesky [<mailto:mike@mateskylaw.com>]

Sent: Monday, February 01, 2021 5:31 PM

To: Ben Hodges; Michael Galletch; Kelly Mennemeier; sroberts@bpmlaw.com; acohen@bpmlaw.com

Subject: RE: Universal Life Church Monastery Storehouse v King et al 2:19-cv-00301-RAJ

Ben,

Please see the attached filing receipts for Section 7 requests for correction for three of ULC Monastery's trademark registrations. We will be filing an additional Section 7 request for correction for another ULC Monastery registration shortly.

With regard to the GET ORDAINED application, that can only be amended through TTAB, since it is the subject of a pending opposition proceeding. See TBMP 303.05(d). However, as you know, the Board just issued an order suspending that proceeding until it rules on several pending motions, so filing something at this point in time would not be proper. For what it's worth, I filed a change of address in the (also suspended) AMERICAN MARRIAGE MINISTRIES cancellation proceeding months ago, and the Board still hasn't change my address in its system.

Sincerely,
Mike

Mike Matesky
Matesky Law PLLC
4500 9th Ave. NE, Suite 300
Seattle, WA 98105
(Please Note New Street/Mailing Address Above)
Ph: 206.701.0331
Fax: 206.701.0332
mike@mateskylaw.com
www.mateskylaw.com



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From: Ben Hodges [<mailto:ben.hodges@foster.com>]
Sent: Monday, February 01, 2021 1:16 PM
To: Mike Matesky <mike@mateskylaw.com>; Michael Galletch <mike@psbizlit.com>; Kelly Mennemeier <kelly.mennemeier@foster.com>; sroberts@bpmlaw.com; acohen@bpmlaw.com
Subject: RE: Universal Life Church Monastery Storehouse v King et al 2:19-cv-00301-RAJ

Thanks Mike. When that's done, we're happy to work with you to get that entity out of the litigation.

Ben Hodges
Principal

Foster Garvey PC
Tel: 206.447.6282
ben.hodges@foster.com

From: Mike Matesky [<mailto:mike@mateskylaw.com>]
Sent: Monday, February 01, 2021 1:08 PM
To: Ben Hodges; Michael Galletch; Kelly Mennemeier; sroberts@bpmlaw.com; acohen@bpmlaw.com
Subject: RE: Universal Life Church Monastery Storehouse v King et al 2:19-cv-00301-RAJ

Ben,

I'm pretty sure you have gotten sworn testimony from ULC Monastery managers/directors that they know nothing about any "Inc." entity since that time. Nonetheless, we do plan to file TM corrections, so I will let you know when that occurs.

Sincerely,
Mike

Mike Matesky
Matesky Law PLLC
4500 9th Ave. NE, Suite 300
Seattle, WA 98105

(Please Note New Street/Mailing Address Above)

Ph: 206.701.0331

Fax: 206.701.0332

mike@mateskylaw.com

www.mateskylaw.com



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From: Ben Hodges [<mailto:ben.hodges@foster.com>]

Sent: Monday, February 01, 2021 1:02 PM

To: Mike Matesky <mike@mateskylaw.com>; Michael Galletch <mike@psbizlit.com>; Kelly Mennemeier <kelly.mennemeier@foster.com>; sroberts@bpmlaw.com; acohen@bpmlaw.com

Subject: RE: Universal Life Church Monastery Storehouse v King et al 2:19-cv-00301-RAJ

Mike,

I think the issue we were discussing at the time was that it would take the place of a formal declaration from your client, as it would be an official filing on which we could rely.

Thanks.

Ben

Ben Hodges

Principal

Foster Garvey PC

Tel: 206.447.6282

ben.hodges@foster.com

From: Mike Matesky [<mailto:mike@mateskylaw.com>]

Sent: Monday, February 01, 2021 12:49 PM

To: Ben Hodges; Michael Galletch; Kelly Mennemeier; sroberts@bpmlaw.com; acohen@bpmlaw.com

Subject: RE: Universal Life Church Monastery Storehouse v King et al 2:19-cv-00301-RAJ

Ben,

I am happy to file clarifications/corrections on any of ULC Monastery's registrations that mistakenly use "Inc." in the registrant name, but I don't believe any of those registrations are relevant to the federal court case (in particular to Defendants' counterclaims against any "Inc." entity). Was there something in particular you thought was relevant to Defendants' counterclaims?

Sincerely,
Mike

Mike Matesky
Matesky Law PLLC
4500 9th Ave. NE, Suite 300
Seattle, WA 98105
(Please Note New Street/Mailing Address Above)
Ph: 206.701.0331
Fax: 206.701.0332
mike@mateskylaw.com
www.mateskylaw.com



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From: Ben Hodges [<mailto:ben.hodges@foster.com>]

Sent: Monday, February 01, 2021 10:27 AM

To: Michael Galletch <mike@psbizlit.com>; Kelly Mennemeier <kelly.mennemeier@foster.com>;
sroberts@bpmlaw.com; acohen@bpmlaw.com

Cc: Mike Matesky <mike@mateskylaw.com>

Subject: RE: Universal Life Church Monastery Storehouse v King et al 2:19-cv-00301-RAJ

Mike,

It is my recollection that we were waiting on you all to file something with the Trademark office to correct the ownership that led to the belief that the "inc." existed and that states that no such entity exists/existed. If that was done and I didn't know it, please let me know.

Thanks.

Ben

Ben Hodges
Principal

Foster Garvey PC
Tel: 206.447.6282
ben.hodges@foster.com

From: Michael Galletch [<mailto:mike@psbizlit.com>]
Sent: Thursday, January 28, 2021 12:33 PM
To: Ben Hodges; Kelly Mennemeier; sroberts@bpmlaw.com; acohen@bpmlaw.com
Cc: Mike Matesky
Subject: RE: Universal Life Church Monastery Storehouse v King et al 2:19-cv-00301-RAJ

Ben:
Let us know what you think you are waiting on or need. Mike M and I don't recall anything.

Also, as I am pretty sure we conferred about this before, the public records are an objective source and demonstrate the Plaintiff's correct entity name does not include the "inc." I believe ULC Monastery produced corp records to confirm this.

Michael Galletch



411 University St., Ste 1200
Seattle, WA 98101
(206) 374-8500
[web: psbizlit.com](http://web:psbizlit.com)
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From: Ben Hodges <ben.hodges@foster.com>
Sent: Wednesday, January 27, 2021 2:03 PM
To: Victoria Ericksen <Victoria_Ericksen@wawd.uscourts.gov>; Michael Galletch <mike@psbizlit.com>; Kelly Mennemeier <kelly.mennemeier@foster.com>; Nancy Stephens <nancy.stephens@foster.com>; sroberts@bpmlaw.com; acohen@bpmlaw.com
Cc: LITDOCKET <LITDOCKET@Foster.com>
Subject: RE: Universal Life Church Monastery Storehouse v King et al 2:19-cv-00301-RAJ

Thank you for checking in Victoria. I believe American Marriage Ministries was waiting on some things on this point from ULC, but we will follow up separately with counsel on those points.

Thank you.

Ben

Ben Hodges

Principal

Foster Garvey PC

Tel: 206.447.6282

ben.hodges@foster.com

From: Victoria Ericksen [mailto:Victoria_Ericksen@wawd.uscourts.gov]

Sent: Wednesday, January 27, 2021 10:20 AM

To: Michael Galletch; Kelly Mennemeier; Nancy Stephens; sroberts@bpmlaw.com; acohen@bpmlaw.com; Ben Hodges

Cc: LITDOCKET

Subject: RE: Universal Life Church Monastery Storehouse v King et al 2:19-cv-00301-RAJ

Thank you, counsel. The party remains on the docket and in the caption of the case. Does American Marriage Ministries intend to file a notice of voluntary dismissal of Universal Life Church Monastery Storehouse, Inc.?

Thanks again,

Victoria

Victoria Ericksen

Courtroom Deputy to the Honorable Richard A. Jones

United States District Court

Western District of Washington

(206) 370-8517

From: Michael Galletch <mike@psbizlit.com>

Sent: Wednesday, January 27, 2021 10:16 AM

To: Victoria Ericksen <Victoria_Ericksen@wawd.uscourts.gov>

Cc: kelly.mennemeier@foster.com; nancy.stephens@foster.com; sroberts@bpmlaw.com; acohen@bpmlaw.com; ben.hodges@foster.com

Subject: RE: Universal Life Church Monastery Storehouse v King et al 2:19-cv-00301-RAJ

CAUTION - EXTERNAL:

Ms. Ericksen:

As far as the Plaintiff knows, there is no entity named "Universal Life Church Monastery Storehouse, Inc." (emphasis added). We did not have an intent to appear for an entity that does not exist. We communicated with defense counsel about this early on, and it was also referenced in early pleadings.

Michael Galletch



411 University St., Ste 1200

Seattle, WA 98101

(206) 374-8500

web: psbizlit.com

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From: Victoria Ericksen <Victoria_Ericksen@wawd.uscourts.gov>
Sent: Wednesday, January 27, 2021 9:41 AM
To: litigation@mateskylaw.com; Michael Galletch <mike@psbizlit.com>
Cc: kelly.mennemeier@foster.com; nancy.stephens@foster.com; sroberts@bpmlaw.com; acohen@bpmlaw.com; ben.hodges@foster.com
Subject: Universal Life Church Monastery Storehouse v King et al 2:19-cv-00301-RAJ

Counsel,

As you are aware, this case has been reassigned to Judge Jones.

In reviewing the docket, I don't see that counsel has appeared for Counter-Defendant / Third-Party Defendant Universal Life Church Monastery Storehouse, Inc. Was that an oversight? Did counsel for Universal Life Church Monastery Storehouse intend to appear for both parties? Please let me know.

Thank you,
Victoria

Victoria Ericksen
Courtroom Deputy to the Honorable Richard A. Jones
United States District Court
Western District of Washington
(206) 370-8517

CAUTION - EXTERNAL EMAIL: This email originated outside the Judiciary. Exercise caution when opening attachments or clicking on links.

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing on Opposer's counsel of record by email transmission to nancy.stephens@foster.com, pursuant to Trademark Rule § 2.119(b), 37 C.F.R. § 2.119(b).

Dated: August 25, 2020

s/ Michael P. Matesky, II
Michael P. Matesky, II